IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6630 OF 2007

M/s. Rajaram Construction
Through its Proprietor
Ramesh R. Bhekre. .. Petitioner.

vs.

Industrial Development
Bank of India. .. Respondent.

Mr. Sagar Joshi for Petitioner.
Mr. P.A. Gokhale i/by M.P. Rege & Co. for respondent.

..

CORAM: J.N. PATEL &
A.A. SAYED, JJ.
DATE: 22ND OCTOBER, 2007.

P.C.

. Heard.

2. The petitioner has invoked the extra-ordinary jurisdiction of this Court for seeking a writ of mandamus against the respondent bank (nationalised bank) to credit an amount of Rs. 8,07,000/- forthwith in the current account of the petitioner being Current

Account No. 2368 with interest at the rate of 9% from 29.1.2007 on which day the cheques were deposited till the aforesaid amount is actually credited. It appears that after the cheques were deposited with the Bank, they were found to be stolen which delayed the same being credited in the account of the petitioner. The aforesaid fact is not disputed.

3. In the given facts and circumstances it cannot be said that the respondent bank can be held liable for the delay in crediting the account of the petitioner with the amount of cheques deposited by the petitioner as the same were stolen.

4. The learned counsel for the respondent Bank informs this Court that on lodging the FIR the accused persons have been arrested and they are prosecuted in the Court of Magistrate at Thane which also indicates that the Bank has taken diligent steps in the matter.

5. Further, the correspondence between the parties is also placed before us which shows that the Bank cannot be faulted with the delay in crediting the amount of the cheque deposited by the petitioner.

6. The learned counsel for the petitioner submits that the Bank credited the account with the amount of the cheques only after the petitioner approached this Court by filing a writ petition which is strongly

refuted by the learned counsel for the respondent. It is submitted that the matter was under process and as soon as it was resolved the Bank wrote to the petitioner conveying their decision to credit the account with the amount of cheques deposited by the Petitioner. Therefore, in the facts and circumstances we are not inclined to exercise our extra-ordinary jurisdiction. If the petitioner is so sensitive about the deficiency in service, it is open for the petitioner to seek alternative remedy .

7. With the aforesaid observation, the petition is dismissed. No order as to costs.

(J.N. Patel, J.)

(A.A. Sayed, J.)